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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/649,091	08/27/2003	Anthony J. Bacrocher	0112300-1411	4932				
7590 Bell, Boyd & Lloyd LLC P.O Box 1135 Chicago, IL 60690-1135		07/18/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">HOEL, MATTHEW D</td></tr></table>		EXAMINER		HOEL, MATTHEW D	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/649,091

Applicant(s)

BAERLOCHER, ANTHONY J.

Examiner

Matthew D. Hoel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19-41, 43-61, 64-76, 78-96, 103-106, 108-110 and 114-126 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-17, 19-41, 43-61, 64-76, 78-93, 103, 117, 121, 125 and 126 is/are allowed.
- 6) ☒ Claim(s) 94-96, 104-106, 108-110, 114-116, 118-120 and 122-124 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code 103 not included in this action can be found in a prior Office action.
2. Claims 94, 104, 108, 114, 118, and 122 are rejected under 35 U.S.C. 103(a) as being obvious over Frohm, et al. (U.S. patent 6,159,095 A) in view of Olive (U.S. pre-grant publication 2002/0025849 A1) and Caro (U.S. patent 5,636,838 A). For clarity, each independent claim is discussed separately.
3. As to Claim 94: (The previous rejections of original Claims 1, 2, and 44, now cancelled, is incorporated as this Claim puts them in independent form. The text is repeated below, Clm. 1 changed to Clm. 94. The new limitation is addressed in the last paragraph of this rejection). '095 discloses all of the elements of Claim 94, but lacks specificity as to a plurality of second award symbols, a plurality of second awards associated with the second award symbols, and a plurality of second activatable symbol indicators associated with the second award symbols. '095 teaches a gaming device (Abst., Fig. 1). '095 teaches an award indicator including a plurality of first award symbols (award indicator—plurality of slot reels, Fig. 6; plurality of first award symbols—plurality of winning paylines, Fig. 8). '095 teaches a plurality of first awards associated with the first award symbols (Fig. 8). '095 teaches a plurality of activatable symbol indicators associated with the first award symbols (activated payline—activatable symbol indicator, Fig. 6; plural activatable paylines possible depending on how much

player bets, Col. 9, Lines 33 to 37). '095 teaches a processor (17, Fig. 3). The player of '095 is able to pick one of the first symbol indicators to activate the first symbol indicator (player can activate one payline, Fig. 6, may activate only one payline, Col. 9, Lines 33 to 37). '095 causes the activated first symbol indicator to indicate one of the first award symbols on the award indicator (player wins when a winning combination appears on an activated payline, Col. 9, Lines 39 to 45, Fig. 8).

4. '849, however, teaches a plurality of second award symbols (plurality of second award symbols—right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28). '849 also teaches a plurality of second awards associated with the second award symbols (second awards—prizes paid on right-to-left paylines, Para. 28). The player of '849 is able to pick one of the second symbol indicators to activate the picked second symbol indicator (player can bet on one or more paylines, Para. 26). '849 causes the activated second award symbol to indicate on one of the second award symbols on the award indicator (game pays if a winning combination occurs on a right-to-left payline, Para. 28). '849 provides a total award to a player based on the first and second awards associated with the indicated first and second award symbols (game pays on winning combinations occurring on both traditional left-to-right paylines and right-to-left paylines, Para. 28). It would be obvious to one of ordinary skill in the art at the time of invention to apply the right-to-left paylines (plurality of second award indicators) of '849 to the game of '095. The slot game of '849 can be implemented as a bonus game (Para. 26), like the slot game of '095 (Col. 9, Lines 58 to 63). '095 is a slot game (Fig. 6) that uses a touchscreen interface (Col. 3, Lines 57 to 62), like the game of

'849 (Para. 18, Figs. 2-4). The combination would produce a game operable to enable a player to pick one of the first symbol indicators to activate the picked first symbol indicator, enable the player to pick one of the second symbol indicators to activate the picked second symbol indicator, cause the activated first symbol indicator to indicate one of the first award symbols on the award indicator, cause the activated second symbol indicator to indicate one of the second award symbols on the award indicator, and provide a total award to a player based on the first and second awards associated with the indicated first and second award symbols. The advantage of this combination would be to stimulate players' interest in the game by providing both traditional left-to-right paylines as well as right-to-left paylines (first and second groups of award symbols), providing more chances for winning to the players.

5. In '849, the first award symbols (winning payline combinations) and the second award symbols are related. '849 teaches an award symbol of "3 X K" (Para. 28, Fig. 4a). The award symbols can be read from the traditional left-to-right order or from the right-to-left order, so the first and second award symbols are the reverse of each other (Para. 28).

6. Neither '095 nor '849 in the 103 combination of '095 and '849 explicitly mention the limitation of including an average expected award based on the first and second awards associated with at least one of the indicated first award symbols and at least one of the indicated second award symbols, wherein the first and second awards are arranged on the award indicator so that the average expected award is the same. The examiner believes that this would be inherent in these references. '095 teaches a slot

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machine with a payable (Fig. 8). Slot machines are required by law to have a minimum fixed payout percentage, as evidenced by Nevada Gaming Regulation 14.040 which requires at least a 75% payout. That the payout is fixed is demonstrated by the fixed payout table of '095 (Fig. 8), which does not change during the course of the game. '849 teaches the player betting and winning on right-to-left in addition to left-to-right paylines (activatable right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28; player can bet on one or more paylines, Para. 26); the same symbol combinations are paid in either direction. The examiner thus believes that the average expected award based on the first and second awards will be approximately the same throughout the game, being inherent in the machine created by the 103 combination of these references.

7. Regarding the new limitation of each of the first award symbols of the award indicator being configured to be indicated in combination with one of the second award symbols from a predetermined group of the second award symbols associated with the first award symbols, such that the average expected award is approximately the same for each indication of the first award symbol, the examiner finds this new limitation would be obvious in light of Caro (U.S. patent 5,636,838 A). Caro, however, teaches a dual roulette wheel with two betting areas. The wheels do not rotate completely independently of each other (Claim 1), though they can in another embodiment (2:4-8, Clm. 2). The examiner notes that in the event the player bets on both roulette wheels, the total winnings will be added together in a similar manner to the applicants' adding the two symbol indicators' values, so this limitation is properly anticipated. It is inherent

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that each of the first award symbols of the award indicators is configured to be indicated in combination with one of the second award symbols from a predetermined group of the second award symbols associated with the first award symbols, such that the average expected award is approximately the same for each indication of the first award symbol. This is inherent to '838 as taught by Scarne in "Scarne's Complete Guide to Gambling" (by John Scarne, Simon & Schuster, New York, 1961, Page 360), which teaches a distribution of numbers across the roulette wheel which is mathematically balanced (4<sup>th</sup> and 5<sup>th</sup> paragraphs). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the even distribution of roulette symbols of '838 to the combination of '095 and '849. Motivation for this combination can be found in Jarvis, et al. (U.S. pre-grant publication 2004/0077398 A1, which shows a multiple roulette game analogous to '838 implemented in a video slot format, Abst., Fig. 3). Betting on a number in a roulette game is analogous to activating a payline (symbol indicator) on a slot machine; instead of betting on a particular number as in roulette, the slot player is betting a winning combination will happen on a payline. Both games have numbers or symbols arranged in a circular arrangement on a wheel or disc. The advantage to this combination would be to provide predictability for the player as the player would know that the typical award resulting from the combination of the two symbol indicators would have an average value.

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8. As to Claim 104: The previous discussions of original Claims 28, 43, and 44 are incorporated herein by reference as this claim puts them in independent form. The new limitations are considered to be obvious for the reasons outlined in the rejection of Claim 94 above.

9. As to Claim 108: The previous discussions of original Claims 44, 47, and 53 are incorporated herein by reference as this claim puts them in independent form. The new limitations are considered to be obvious for the reasons outlined in the rejection of Claim 94 above.

10. As to Claim 114: The previous discussions of original claims 57 and 44 are incorporated herein by reference as this claim puts them in independent form. The new limitations are considered to be obvious for the reasons outlined in the rejection of Claim 94 above.

11. As to Claim 118: The previous discussions of original Claims 72 and 44 are incorporated herein by reference as this Claim puts them in independent form. The new limitations are considered to be obvious for the reasons outlined in the rejection of Claim 94 above.

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12. As to Claim 122: The previous discussions of original Claims 84 and 44 are incorporated herein by reference as this Claim puts them in independent form. The new limitations are considered to be obvious for the reasons outlined in the rejection of Claim 94 above.

13. Claims 95, 96, 105, 106, 109, 110, 115, 116, 119, 120, 123, and 124 are rejected under 35 U.S.C. 103(a) as being obvious over Frohm, et al. (U.S. patent 6,159,095 A) in view of Olive (U.S. pre-grant publication 2002/0025849 A1) and Keane (U.S. patent 5,873,781 A). For clarity, each independent claim is discussed separately.

14. As to Claim 95: The previous discussions of original Claims 1, 2, and 45 are incorporated as this claim puts them in independent form.

15. '095 discloses all of the elements of Claim 95, but lacks specificity as to a plurality of second award symbols, a plurality of second awards associated with the second award symbols, and a plurality of second activatable symbol indicators associated with the second award symbols. '095 teaches a gaming device (Abst., Fig. 1). '095 teaches an award indicator including a plurality of first award symbols (award indicator—plurality of slot reels, Fig. 6; plurality of first award symbols—plurality of winning paylines, Fig. 8). '095 teaches a plurality of first awards associated with the first award symbols (Fig. 8). '095 teaches a plurality of activatable symbol indicators associated with the first award symbols (activated payline—activatable symbol indicator, Fig. 6; plural activatable paylines possible depending on how much player bets, Col. 9, Lines 33 to 37). '095 teaches a processor (17, Fig. 3). The player of '095 is able to pick

one of the first symbol indicators to activate the first symbol indicator (player can activate one payline, Fig. 6, may activate only one payline, Col. 9, Lines 33 to 37). '095 causes the activated first symbol indicator to indicate one of the first award symbols on the award indicator (player wins when a winning combination appears on an activated payline, Col. 9, Lines 39 to 45, Fig. 8).

16. '849, however, teaches a plurality of second award symbols (plurality of second award symbols—right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28). '849 also teaches a plurality of second awards associated with the second award symbols (second awards—prizes paid on right-to-left paylines, Para. 28).

The player of '849 is able to pick one of the second symbol indicators to activate the picked second symbol indicator (player can bet on one or more paylines, Para. 26).

'849 causes the activated second award symbol to indicate on one of the second award symbols on the award indicator (game pays if a winning combination occurs on a right-to-left payline, Para. 28). '849 provides a total award to a player based on the first and second awards associated with the indicated first and second award symbols (game pays on winning combinations occurring on both traditional left-to-right paylines and right-to-left paylines, Para. 28). It would be obvious to one of ordinary skill in the art at the time of invention to apply the right-to-left paylines (plurality of second award indicators) of '849 to the game of '095. The slot game of '849 can be implemented as a bonus game (Para. 26), like the slot game of '095 (Col. 9, Lines 58 to 63). '095 is a slot game (Fig. 6) that uses a touchscreen interface (Col. 3, Lines 57 to 62), like the game of '849 (Para. 18, Figs. 2-4). The combination would produces a game operable to enable

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a player to pick one of the first symbol indicators to activate the picked first symbol indicator, enable the player to pick one of the second symbol indicators to activate the picked second symbol indicator, cause the activated first symbol indicator to indicate one of the first award symbols on the award indicator, cause the activated second symbol indicator to indicate one of the second award symbols on the award indicator, and provide a total award to a player based on the first and second awards associated with the indicated first and second award symbols. The advantage of this combination would be to stimulate players' interest in the game by providing both traditional left-to-right paylines as well as right-to-left paylines (first and second groups of award symbols), providing more chances for winning to the players.

**17.** In '849, the first award symbols (winning payline combinations) and the second award symbols are related. '849 teaches an award symbol of "3 X K" (Para. 28, Fig. 4a). The award symbols can be read from the traditional left-to-right order or from the right-to-left order, so the first and second award symbols are the reverse of each other (Para. 28).

**18.** Neither '095 nor '849 in the 103 combination of '095 and '849 explicitly mention the limitation of including an average expected award based on the first and second symbols associated with at least one of the indicated first award symbols and at least one of the indicated second award symbols, wherein the first and second awards are arranged on the award indicator so that the average expected award is different in each indication of the first and second symbols. The examiner believes that this would be inherent in these references. '095 teaches a slot machine with a payable (Fig. 8). '849

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teaches the player betting and winning on right-to-left in addition to left-to-right paylines (activatable right-to-left paylines in addition to normal left-to-right paylines, Figs. 3, 4a-e, Para. 28; player can bet on one or more paylines, Para. 26); the same symbol combinations are paid in either direction. Fig. 8 of '095 shows a paytable with multiple winning combinations. On average, a slot machine with such a paytable will have a different combination of symbols on each payline for each indication, or pull of the slot handle. Very seldom will the same combination appear twice in a row—almost never. The examiner thus believes that it is inherent that the average expected award will be different in each indication of the first and second awards in the machine created by the 103 combination of '095 and '849.

19. '781, however, discusses nonuniform distributions of symbols on each of multiple reels (11:11-23). This combined with '095 and '849 would result in each first award symbol being configured to be indicated in combination with one of the second award symbols from a predetermined group of the second award symbols associated with the first award symbol, such that the average expected award associated with each of the award symbols is different, as each reel would have nonuniform distributions so the total sum of the totals of the award symbols would vary, and not be constant as in the evenly distributed numbers of the '838 roulette discussed regarding Claim 94. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the nonuniform distributions of '781 to the combination of '095 and '849. '781 illustrates differing probabilities for symbols (in this case, stop positions) in Fig. 3. '781 is intended to be used in slot machines (2:12-26). The advantage would be that

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the random average payout amount would maintain player's interest in the game, as the randomly expected average awards would fluctuate, causing player to try to anticipate when a machine is hot if it hasn't paid out for awhile.

20. As to Claim 96: The previous discussions of original claims 1, 2, and 46 are incorporated by reference as this claim puts them in independent form. Regarding the new limitations of the first award symbols being configured to be indicated in combination with one of the second award symbols from a predetermined group of the second award symbols associated with the first award symbol, such that the average expected awards associated with a plurality (as opposed to each) of the first award symbols are different, the examiner believes this limitation is obvious for reasons similar to those outlined in the rejection of Claim 95 above.

21. As to Claim 105: The previous discussions of original Claims 28, 43, and 45 are incorporated by reference as this claim puts them in independent form. Regarding the new limitations, the examiner believes these are obvious for the reasons outlined in the rejection of Claim 95 above.

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22. As to Claim 106: The previous discussions of original Claims 28, 43, and 46 are incorporated by reference as this claim puts them in independent form. Regarding the new limitations of the first award symbols being configured to be indicated in combination with one of the second award symbols from a predetermined group of the second award symbols associated with the first award symbol, such that the average expected awards associated with a plurality (as opposed to each) of the first award symbols are different, the examiner believes this limitation is obvious for reasons similar to those outlined in the rejection of Claim 95 above.

23. As to Claim 109: The previous discussions of original Claims 45, 47, and 53 are incorporated by reference as this claim puts them in independent form. Regarding the new limitations, the examiner believes these are obvious for the reasons outlined in the rejection of Claim 95 above.

24. As to Claim 110: The previous discussions of original Claims 46, 47, and 53 are incorporated by reference as this claim puts them in independent form. Regarding the new limitations of the first award symbols being configured to be indicated in combination with one of the second award symbols from a predetermined group of the second award symbols associated with the first award symbol, such that the average expected awards associated with a plurality (as opposed to each) of the first award symbols are different, the examiner believes this limitation is obvious for reasons similar to those outlined in the rejection of Claim 95 above.

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25. As to Claim 115: The previous discussions of original Claims 45 and 57 are incorporated by reference as this claim puts it in independent form. Regarding the new limitations, the examiner believes these are obvious for the reasons outlined in the rejection of Claim 95 above.

26. As to Claim 116: The previous discussions of original Claims 46 and 57 are incorporated by reference as this claim puts it in independent form. Regarding the new limitations of the first award symbols being configured to be indicated in combination with one of the second award symbols from a predetermined group of the second award symbols associated with the first award symbol, such that the average expected awards associated with a plurality (as opposed to each) of the first award symbols are different, the examiner believes this limitation is obvious for reasons similar to those outlined in the rejection of Claim 95 above.

27. As to Claim 119: The previous discussions of original Claims 45 and 72 are incorporated by reference as this claim puts it in independent form. Regarding the new limitations, the examiner believes these are obvious for the reasons outlined in the rejection of Claim 95 above.

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28. As to Claim 120: The previous discussions of original Claims 46 and 72 are incorporated by reference as this claim puts it in independent form. Regarding the new limitations of the first award symbols being configured to be indicated in combination with one of the second award symbols from a predetermined group of the second award symbols associated with the first award symbol, such that the average expected awards associated with a plurality (as opposed to each) of the first award symbols are different, the examiner believes this limitation is obvious for reasons similar to those outlined in the rejection of Claim 95 above.

29. As to Claim 123: The previous discussions of original Claims 45 and 84 are incorporated by reference as this claim puts it in independent form. Regarding the new limitations, the examiner believes these are obvious for the reasons outlined in the rejection of Claim 95 above.

30. As to Claim 124: The previous discussions of originals Claim 46 and 84 are incorporated by reference as this claim puts it in independent form. Regarding the new limitations of the first award symbols being configured to be indicated in combination with one of the second award symbols from a predetermined group of the second award symbols associated with the first award symbol, such that the average expected awards associated with a plurality (as opposed to each) of the first award symbols are different, the examiner believes this limitation is obvious for reasons similar to those outlined in the rejection of Claim 95 above.

***Conclusion***

**31.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Provisional application 60/458,764, published as 2004/0180716 A1 teaches multiple columns of symbols on a reel (Figs. 2a-b). Provisional application 60/383,059, published as 2003/0220134 A1, teaches reels moving at the same speed in the same direction (Page 13). UK patent publication GB 2 098 777 A (application 8209268) nudges all of the reels up or down at the same time. Tela in U.S. patent 4,077,631 A teaches inner and outer indicia on a roulette wheel with an even distribution of numbers (Abst.). U.S. patent 1,540,288 A teaches an award indicator with concentric circles of award symbols and a rotating symbol indicator. Vancura in U.S. patent 6,398,218 B1 teaches adding all of the numbers appearing as symbols on slot reels. Mayeroff in 2004/0214631 A1 teaches a rotating bonus ball.

***Conclusion***

**32.** This action is non-final as the amendments could have been expected in light of the interview on 5-9-2007. The examiner updated the search and newly allowed Claims 28 to 41, 43 to 46, 72 to 76, and 78 to 83. The examiner believes the distributions of award symbols on the award indicators as newly claimed are still obvious as outlined in the rejections above. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose

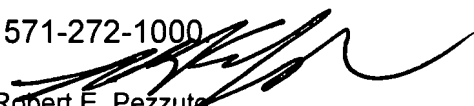
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telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

33. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (571) 272-69966788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew D. Hoel  
Patent Examiner  
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Robert E. Pezzuto  
Supervisory Patent Examiner  
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